

(2) A brief that states succinctly the relief sought and the ground(s) in support thereof, which may include supporting documentation and evidence in the form of affidavits.

(c) A party that has filed a notice of appeal may waive the right to an oral hearing before a presiding official and instead elect to have the matter determined by the Commission solely on the basis of written submissions. Appeals based on written submissions are governed by part 585 of this subchapter. If there is more than one party that has filed a notice of appeal, and any party that has filed a notice of appeal elects a hearing before a presiding official, the entire matter will proceed before a presiding official.

(d) The Chair may file a response brief and a list of the names of proposed witnesses who will present oral testimony at the hearing, the general nature of their expected testimony, and whether a closed hearing is requested and the reason(s) therefor, within 10 days after service of the appellate brief.

§ 584.4 Are motions permitted?

Yes. Motions to intervene under § 584.5 are permitted. Motions for an extension of time that are filed before the appointment of a presiding official shall be decided by the Commission. All other motions may be scheduled and heard at the discretion of the presiding official.

§ 584.5 How do I file a motion to intervene?

(a) An entity or an individual, whether acting on his or her own behalf or as an agent of another entity not permitted to appeal, may be permitted to participate as a party if the presiding official finds that:

(1) The final decision could directly and adversely affect it or the class it represents;

(2) The individual or entity may contribute materially to the disposition of the proceedings;

(3) The individual's or the entity's interest is not adequately represented by existing parties; and

(4) Intervention would not unfairly prejudice existing parties or delay resolution of the proceeding.

(b) A tribe with jurisdiction over the lands on which there is a gaming operation that is the subject of a proceeding under this part may intervene as a matter of right if the tribe is not already a party.

(c) A motion to intervene shall be submitted to the presiding official within 10 days of the notice of appeal. The motion shall be filed with the presiding official and served on each person who has been made a party at the time of filing. The motion shall state succinctly:

(1) The moving party's interest in the proceeding;

(2) How his or her participation as a party will contribute materially to the disposition of the proceeding;

(3) Who will appear for the moving party;

(4) The issues on which the moving party seeks to participate; and

(5) Whether the moving party seeks to present witnesses.

(d) Objections to the motion must be filed by any party within 10 days after service of the motion.

(e) A reply brief to the brief in opposition may be filed within 5 days of service of the brief in opposition.

(f) When motions to intervene are made by individuals or groups with common interests, the presiding official may request all such movants to designate a single representative, or he or she may recognize one or more movants.

(g) The presiding official shall give each movant and party written notice of his or her decision on the motion. For each motion granted, the presiding official shall provide a brief statement of the reason(s) for the decision. If the motion is denied, the presiding official shall briefly state the ground(s) for denial. The presiding official may allow the movant to participate as *amicus curiae*, if appropriate.

§ 584.6 When will the hearing be held?

(a) The Commission shall designate a presiding official who shall commence a hearing within 30 days after the Commission receives a timely notice of appeal. At the request of the appellant, the presiding official may waive the 30-day hearing requirement upon designation.

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(b) If the subject of an appeal is whether an order of temporary closure should be made permanent or dissolved, the presiding official shall be designated within 7 days of the timely filing of the notice of appeal, and the hearing shall be concluded within 30 days after the Commission receives a timely notice of appeal, unless the appellant waives this right. Notwithstanding any other provision of this part, the presiding official shall conduct such hearing in a manner that will enable him or her to conclude the hearing within the period required by this paragraph and consistent with any due process rights of the parties, including any period that the record is kept open following the hearing.

§ 584.7 When will I receive a copy of the record on which the Chair relied?

Within 10 days of the timely filing of a notice of appeal, or as soon thereafter as practicable, the record on which the Chair relied will be transmitted to the parties. In appeals dealing with temporary closure orders, the record will be transmitted within 5 days of the timely filing of a notice of appeal. Upon designation of the presiding official, the Commission shall transmit the agency record to the presiding official.

§ 584.8 What is the hearing process?

(a) Once designated by the Commission, the presiding official shall schedule the matter for hearing. The appellant may appear at the hearing personally, through counsel, or through an authorized representative consistent with the requirements of § 580.3 of this subchapter. The appellant, the Chair, and any intervenor shall have the right to introduce relevant written materials and to present an oral argument. At the discretion of the presiding official, a hearing under this section may include an opportunity to submit oral and documentary evidence and cross-examine witnesses.

(b) When holding a hearing under this part, the presiding official shall:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas authorized by the Commission;

(3) Rule on offers of proof and receive relevant evidence;

(4) Authorize exchanges of information (including depositions and interrogatories in accordance with 25 CFR part 571, subpart C of this chapter) among the parties when to do so would expedite the proceeding;

(5) Establish and administer the course of the hearing;

(6) When appropriate, hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) At any conference held pursuant to paragraph (b)(6) of this section, require the attendance of at least one representative from each party who has authority to negotiate the resolution of issues in controversy;

(8) Dispose of procedural requests or similar matters;

(9) Recommend decisions in accordance with § 584.12; and

(10) Take other actions consistent with this part that are authorized by the Commission.

(c) The presiding official may order the record to be kept open for a reasonable period of time following the hearing (normally 10 days), during which time the parties may make additional submissions to the record, except that if the subject of the appeal is an order of temporary closure under § 573.4 of this chapter, the record will be kept open for a maximum of 10 days. Thereafter, the record shall be closed and the hearing shall be deemed concluded. Within 30 days after the record closes, the presiding official shall issue a recommended decision in accordance with § 584.12, except that if the subject of the appeal is an order of temporary closure under § 573.4 of this chapter, the presiding official shall issue a recommended decision within 20 days after the record closes.

§ 584.9 How may I request to limit disclosure of confidential information?

(a) If any person submitting a document in a proceeding claims that some or all of the information contained in that document is:

- (1) Exempt from the mandatory public disclosure requirements under the Freedom of Information Act (5 U.S.C. 552);